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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/615,510

07/07/2003

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EXAMINER

FOREMAN, JONATHAN M

ART UNIT

PAPER NUMBER

3736

MAIL DATE

DELIVERY MODE

08/04/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/615,510	Applicant(s) KLINT, HENRIK S.	
	Examiner JONATHAN ML FOREMAN	Art Unit 3736	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 May 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) 2,7,8,10-18,20,21 and 23-28 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-6,9,19,22,29 and 30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 July 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>7/9/07 and 3/13/08</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Claims 2, 7, 8, 10 – 18, 20, 21 and 23 – 28 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Embodiment, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 5/1/08

Information Disclosure Statement

The information disclosure statements filed 7/9/07 and 3/13/08 comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609. They have been placed in the application file, and the information referred to therein has been considered by the examiner as to the merits.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 3 – 6, 19 and 29 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,111,829 to Alvarez de Toledo.

In regard to claims 1, 3 – 6, 19 and 29, Alvarez de Toledo discloses a body portion having a first diameter and comprising a multiple filament group of individual wire coils wound adjacent one another (Col. 4, lines 32 – 35); a distal end portion having a second substantially constant second diameter that is less than the first diameter; a taper portion having a taper form the first diameter to the second diameter (Figure 4); and a coating (32, 34) disposed over the distal end, taper portion and at least a part of the body portion. The coating defines a taper adjacent the taper portion. The coating comprises an elastic material, a low-friction coating and a hydrophilic material (Col. 4, lines 4

Art Unit: 3736

– 8). The taper portion of the guidewire and the taper defined by the coating define generally equal slopes (Figure 2).

4. Claims 1, 3 – 6, 9, 19, 20 and 29 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,910,364 to Miyata et al..

In regard to claims 1, 3 – 6, 8, 9, 19, 20 and 29, Miyata et al. disclose a body portion having a first diameter and comprising a multiple filament group of individual wire coils (Col. 2, lines 54 - 55) wound adjacent one another; a distal end (25) having a substantially constant second diameter that is less than the first diameter; a taper portion (24) having a taper form the first diameter to the second diameter (Figure 1b); and a coating (3) disposed over the distal end, taper portion and at least a part of the body portion. The coating defines a taper adjacent the taper portion (Figure 1a). The coating comprises an elastic material, a low-friction coating and a hydrophilic material (Col. 3, lines 7 - 8). The taper portion of the guidewire and the taper defined by the coating define generally equal slopes (Figure 1a).

5. Claims 1, 3 – 6, 9, 19, 20, 22, 29 and 30 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,251,085 to Tezuka.

In regard to claims 1, 3 – 6, 8, 9, 19, 20, 22, 29 and 30, Tezuka discloses a body portion having a first diameter and comprising a multiple filament group of individual wire coils (Col. 6, lines 47 – 50) wound adjacent one another; a distal end having a substantially constant second diameter that is less than the first diameter; a taper portion having a taper form the first diameter to the second diameter (Figure 2A); and a coating (3, 9) disposed over the distal end, taper portion and at least a part of the body portion. The coating defines a taper adjacent the taper portion. The coating comprises an elastic material, a low-friction coating and a hydrophilic material (Col. 5, lines 29 – 51). The taper includes individual wire coils having different diameters wound at pitch angle

Art Unit: 3736

different than a pitch angle of the body portion (Figure 2A). The taper portion of the guidewire and the taper defined by the coating define generally equal slopes (Figure 2A).

Response to Arguments

6. Applicant's arguments filed 7/9/07 have been fully considered but they are not persuasive. Applicant asserts that Alvarez de Toledo fails to disclose a first diameter, a substantially constant second diameter and a tapered portion between the first and second diameter portions. However the Examiner disagrees. The claims are directed to a ***substantially*** constant second diameter portion and give no recitation to the length of the second diameter portion. As such, the Examiner considers the distal coil of the tapered portion to be a substantially constant second diameter portion. The Examiner asserts that the disclosure of Alvarez de Toledo to a multifilar coil is a disclosure of a multiple filament group of individual wire coils wound adjacent to one another (See WO 92/13483 titled "Multifilar Coil Guide Wire"). Applicant asserts that Tezuka fails to disclose a first diameter, a substantially constant second diameter and a tapered portion between the first and second diameter portions. However the Examiner disagrees. The claims are directed to a ***substantially*** constant second diameter portion and give no recitation to the length of the second diameter portion. As such, the Examiner considers the distal tip of the tapered portion to be a substantially constant second diameter portion. The twisted or stranded wires disclosed by Tezuka form a body portion having a multiple filament group of individual wire coils wound adjacent to one another (Figure 2A).

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Art Unit: 3736

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JONATHAN ML FOREMAN whose telephone number is (571)272-4724. The examiner can normally be reached on Monday - Friday 8:00 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max Hindenburg can be reached on (571)272-4726. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3736

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. M. F./
Examiner, Art Unit 3736

/Max Hindenburg/
Supervisory Patent Examiner, Art Unit 3736